

**COUNSEL IDENTIFICATION ON FINAL PAGES**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

PACIFIC COAST FEDERATION OF  
FISHERMEN'S ASSOCIATIONS, et al.,  
Plaintiffs,

v.

GINA RAIMONDO, in her official  
capacity as Secretary of Commerce, et  
al.,  
Defendants.

Case No. 1:20-cv-00431-DAD-EPG

**STIPULATION BETWEEN FEDERAL  
DEFENDANTS AND PLAINTIFFS  
REGARDING PLAINTIFFS'  
ADMINISTRATIVE RECORD MOTION;  
~~PROPOSED~~ ORDER**

1 This Stipulation is entered between Federal Defendants and Plaintiffs in *Pacific Coast*  
2 *Federation of Fishermen's Associations v. Raimondo* ("PCFFA"), Case No. 1:20-cv-00431-DAD-  
3 EPG, and addresses Plaintiffs' pending motion to complete the administrative records or, in the  
4 alternative, supplement the administrative records ("Administrative Record motion"), Dkt. 224.

5 **RECITALS**

6 WHEREAS, on September 23, 2020, the parties stipulated to a schedule for Federal  
7 Defendants to produce the administrative records of the United States Fish and Wildlife Service  
8 ("FWS"), the National Marine Fisheries Service ("NMFS"), and Bureau of Reclamation ("BOR")  
9 for this case, Dkt. 217, and the stipulation established a meet and confer process regarding the  
10 submitted administrative records and a briefing schedule for any motions to supplement and/or  
11 complete the records;

12 WHEREAS, in accordance with the parties' September 23, 2020 stipulation, Federal  
13 Defendants submitted the three agencies' respective administrative records, Dkt. 218, and after  
14 receiving the records, Plaintiffs and Intervenor-Defendants identified documents and categories of  
15 documents that they wished the agencies would include in the records, the parties met and  
16 conferred, and in an effort to narrow the scope of the dispute, Federal Defendants agreed to add  
17 certain, but not all, of these documents to the records;

18 WHEREAS, on December 18, 2020, Plaintiffs filed their Administrative Record motion  
19 along with a memorandum of law and exhibits, Dkt. 224-239;

20 WHEREAS, on October 14, 2021, the parties filed a joint status report that included their  
21 positions regarding Plaintiffs' pending Administrative Record motion, Dkt. 296, and on October  
22 15, 2021, the Court issued a Minute Order stating that it was "inclined to agree ... that, absent a  
23 stipulation regarding evidentiary items that are most of interest to [PCFFA] plaintiffs, it is not  
24 appropriate to continue to delay resolution of at least the most critical disputes over the content of  
25 the administrative record" and that the parties "may present a stipulation proposing a plan to  
26 present priority evidentiary disputes to the court in as concise a manner as possible," Dkt. 297;

27 WHEREAS, on October 20, 2021, the Court issued a further Order directing Federal  
28 Defendants to respond to Plaintiffs' Administrative Record motion on or before November 2,

2021, and directing the parties “to engage [in] good faith efforts to resolve as many of [their] disputes as possible and to focus any further briefing on documents that are of pivotal importance to the issues plaintiffs anticipate presenting to the court” in relation to their upcoming filings, Dkt. 302;

WHEREAS, Federal Defendants have reviewed the specific documents that Plaintiffs requested the agencies add to their administrative records, as identified in the appendix to Plaintiffs’ Administrative Record motion, Dkt. 226, and Plaintiffs and Federal Defendants have met and conferred in an effort to further narrow the scope of their disputes regarding the administrative records; and

WHEREAS, as set forth in the Stipulation below, Federal Defendants have agreed to add a number of documents to the NMFS, FWS, and/or BOR records in an effort to resolve this specific dispute, in these unique circumstances, in accordance with the Court’s instructions; and

WHEREAS, Plaintiffs and Federal Defendants have agreed on procedures for resolving any remaining disputes regarding the Administrative Record motion.

### STIPULATION

NOW THEREFORE, counsel for Federal Defendants and Plaintiffs in the above-captioned matter hereby agree and stipulate that:

- (1) Federal Defendants will include in the administrative records the documents identified in Attachment A to this Stipulation;
- (2) Federal Defendants will provide<sup>1</sup> to Plaintiffs by November 10, 2021, documents that Federal Defendants have agreed will be added to the administrative record(s), but which are not already in the possession of Plaintiffs or which Plaintiffs possess in a redacted format, specifically, the following documents, which are identified pursuant to the numbering reflected in the Appendix to Plaintiffs’ Administrative Record motion, Dkt. 226: Document Nos. 4a, 5a, 6a (in unredacted format;

---

<sup>1</sup> Federal Defendants and Plaintiffs agree that these documents can be provided to Plaintiffs informally, without bates-stamps, and that formal supplementation of the administrative records with bates-stamped copies of any documents can wait until all administrative record disputes are resolved.

redacted version filed at Dkt. 226-7), 6b, 6c, 6d, 6e, 6f, 7a, 8a, 8b, 8c, 9a, 9b, 9c, 9d, 10a, 12a, 14a, 14b, 14c, 28a, 65a, 65b, 65c, 65d, 68a, 68b, 72a, 78a, 81 (with email header to be unredacted; redacted version filed at Dkt. 228-25), 81a, 95a, and 98a;

(3) Following Federal Defendants' November 10, 2021 production, as described in paragraph (2), Federal Defendants and Plaintiffs will meet and confer to determine if there are any outstanding disputes regarding the scope of redactions made by Federal Defendants to the documents produced on November 10, 2021, and further agree that Plaintiffs may seek Court resolution of any remaining disputes regarding the scope of redactions as part of their anticipated upcoming filings regarding interim injunctive relief;

(4) Federal Defendants agree not to move to strike or otherwise challenge Plaintiffs' reliance on the document identified in the Appendix to Plaintiffs' Administrative Record motion, Dkt. 226, as Document 15, and NMFS and FWS agree not to move to strike or otherwise challenge Plaintiffs' reliance on Document 119 (which is already included in the BOR administrative record), in Plaintiffs' anticipated filings regarding any request for voluntary remand and motions for interim injunctive relief; however, Federal Defendants do not agree at this time to add Document 15 to any of their administrative records or to add Document 119 to the NMFS and FWS administrative records, and expressly reserve their right to challenge their inclusion; and

(5) Federal Defendants and Plaintiffs agree that the resolution of all remaining issues regarding the scope of the administrative records, as presented in Plaintiffs' Administrative Record motion, should be deferred until July 1, 2022.

Dated: November 8, 2021

/s/ Barbara J. Chisholm  
Barbara J. Chisholm

HAMILTON CANDEE (SBN 111376)  
BARBARA JANE CHISHOLM (SBN 224656)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

NICOLE S. COLLINS (SBN 338506)  
ALTSHULER BERZON LLP  
177 Post St., Suite 300  
San Francisco, CA 94108  
Telephone: (415) 421-7151  
Facsimile: (415) 362-8064  
*Attorneys for Plaintiffs Golden State Salmon  
Association, Natural Resources Defense  
Council, Inc., Defenders of Wildlife, and  
Bay.Org d/b/a The Bay Institute*

Dated: November 8, 2021

/s/ Glen H. Spain  
Glen H. Spain

GLEN H. SPAIN (SBN 111376)  
P.O. Box 11170  
Eugene, OR 97440-3370  
Telephone: (541) 689-2000  
*Attorney for Plaintiffs Pacific Coast Federation  
of Fishermen's Associations and Institute for  
Fisheries Resources*

Dated: November 8, 2021

JEAN E. WILLIAMS  
Acting Assistant Attorney General  
SETH M. BARSKY, Section Chief  
S. JAY GOVINDAN, Assistant Section Chief  
U.S. Department of Justice Environment &  
Natural Resources Division  
LESLEY LAWRENCE-HAMMER  
Sr. Trial Attorney  
NICOLE M. SMITH  
Trial Attorney  
EVE W. MCDONALD  
Trial Attorney


/s/ Lesley Lawrence-Hammer  
LESLEY LAWRENCE-HAMMER  
Sr. Trial Attorney  
*Attorneys for Federal Defendants*

**~~[PROPOSED]~~ ORDER**

The court has carefully considered the foregoing Stipulation of Federal Defendants and Plaintiffs and hereby approves the schedule and procedures proposed therein.

IT IS SO ORDERED.

Dated: **November 8, 2021**

  
UNITED STATES DISTRICT JUDGE